

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Cheryl & Terry Hinman,
Appellants,

v.

Johnson County Board of Review,
Appellee.

ORDER

Docket No. 13-52-0230
Parcel No. 0729352007

On January 15, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Dennis J. Mitchell of Meardon, Sueppel & Downer, PLC, Iowa City, Iowa, represents appellants Cheryl and Terry Hinman. Assistant County Attorney Andy Chappell is counsel for the Board of Review. Both parties participated by phone. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Cheryl and Terry Hinman are the owners of property located at 741 Highland Park Avenue, Coralville, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$705,400, representing \$266,100 in land value and \$439,300 in improvement value.

The Hinmans protested to the Board of Review claiming the property was inequitably assessed and assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). They asserted the correct value was \$535,863. The Board of Review reduced the total assessment to \$639,200.

Hinmans then appealed to this Board reasserting their claims.

The property record card indicates the subject is a one-story, single-family home built in 2003. It has 2537 square feet of above-grade living area. The walkout basement is 2619 square feet with

1500 square feet of finish. It also has two open porches, a concrete patio, and a three-car attached garage. The site is 1.34 acres.

Land Valuation

The Hinmans first assert their land is inequitably and over assessed. Terry Hinman described the topography of his lot. He testified one side and the back of the lot drop off dramatically to a ravine and creek. He stated that part of property is not usable because the slope is too steep. He asserts the drop-off is in excess of 45 degrees. He believes his backyard is very different from his neighbor at 721 Highland Park Avenue, which he claims is “flatter, farther back.” He explains the neighbor was able to remove trees and extend the useable area of the yard because their site is more level. Moreover, he notes he has less frontage than that property. For these reasons, he believes his site is overvalued.

Hinman also believes 651 Highland Park Avenue’s land assessment supports a reduction in his valuation. He asserts the property has less slope, no trees, and a big open space, and does not have homes behind it. Hinman reported the 2013 assessment of 651 Highland Park Avenue was \$143,900, compared to the assessment on his lot of \$266,100.

Beth McBride, a staff appraiser in the Johnson County Assessor’s Office testified for the Board of Review. McBride explained she was very familiar with the subject’s neighborhood. She explained it was a very desirable area that offered convenient access to “anywhere you would want to go” and was in a good school district with “one of the better elementary schools” in the immediate vicinity. She explained the elementary school was about a block and a half northeast of the subject’s neighborhood, within walking distance of the subject and accessed by walking trails. Further, she identified the most desirable lots in the neighborhood were either walkout-wooded views or golf course views. The subject site is a walkout-wooded view.

Regarding the Hinmans’ claim that their lot was inequitably assessed, McBride explained 651 Highland Park (Exhibit 12) and another lot Hinman referenced located at 780 Highland Park (Exhibit 11) are vacant lots. Therefore, the assessments are not comparable to the subject site, which is an

improved lot. She explained some of the differences between vacant and improved site assessments include utilities, sidewalks, and landscaping. We note McBride’s explanation is consistent with The IOWA REAL PROPERTY APPRAISAL MANUAL 2008, 2-4, which distinguishes between an improved site and an unimproved site as follows: “When a site is described as ‘improved’ it means it is used in conjunction with an existing structure and has the necessary site improvements. These site improvements include grading and topsoil, landscaping, trees, and shrubs, etc. An ‘unimproved’ site will lack some or all these site improvements.”

Dwelling Valuation

The Hinmans also assert the dwelling is inequitably and over assessed. They submitted a total of nine properties on their Board of Review petition and appeal to this Board, asserting their property’s dwelling assessment is not equitable. At hearing, they submitted a list of four of these properties they believed best supported their argument. (Exhibit 4).

Address	2013 AV (Total)	2013 Land AV	2013 Dwelling AV	GLA	Basement Finish	Total Finish	Dwelling AV/TFA
Subject	\$639,200	\$266,100	\$373,100	2537	1500	4037	\$92.42
721 Highland Park Ave	\$616,500	\$201,300	\$415,200	3281	1729	5010	\$82.87
711 Highland Park Cr	\$700,500	\$228,400	\$449,400	2407	3025	5432	\$82.73
691 Highland Park Cr	\$485,900	\$236,300	\$249,600	1960	1129	3089	\$80.80
751 Highland Park Cr	\$554,300	\$294,800	\$259,500	1790	1182	2972	\$87.31

All of the properties are located in the subject’s immediate vicinity. Hinman explained most of the homes on his street, including 711 Highland Park, were built by Tim Taylor Homes. He described these homes as having very open and spacious floor plans and that only the accents are different.

The Hinmans assert their analysis demonstrates the property’s dwelling value is excessive when compared to neighboring properties. They assert the listed properties are all located on the same side of the street with similar view. They note three of the properties dwelling values are between \$80.80 per-square-foot and \$82.87 per-square-foot. The Hinmans assert the correct value of their dwelling should be \$82.87 per-square-foot, or \$334,546.

Hinman also explained a property located at 531 Highland Park was listed for sale for over \$600,000, but later reduced the price to \$545,000. He saw this reduction at the time he received his assessment notice, which prompted him to file his appeal. Hinman acknowledged the property was being foreclosed and held by a bank at the time it was listed for sale.

Finally, Hinman asserted the subject's neighborhood is declining because "sales don't happen as fast as they did at the time he built in 2004" and in his opinion, all of the values dropped off by at least 10% in the Iowa City/Coralville area. However, he does not provide evidence to support his opinion of a 10% decline.

McBride did not agree with Hinman's assertion that values are decreasing in the area.

McBride also commented on the properties the Hinmans selected as equity comparables. She indicated that 711 Highland Park is a reasonable comparable to the subject. However, we note 711 Highland Park has a swimming pool, which the subject property does not, and twice as much basement finish. For these reasons, we do not find it to be a reliable comparable for equity analysis.

McBride does not believe 721 Highland Park, 691 Highland Park, or 751 Highland Park are reasonable comparables to the subject property. She notes dissimilarities between the subject and some of the comparables including 721 is a two-story home; 691 is inferior quality, lacks the amenities that the subject property features, and it is older; and 751 Highland has a significantly smaller main level and also lacks the upgrades that the subject features.

Based on the evidence, we do not find Hinmans' equity comparables to be sufficiently similar to the subject property. Moreover, the evidence is also insufficient because they did not provide any sales of similar properties. An equity analysis typically compares prior year sale prices (2012 sales) or established market values to the current year's assessment (2013 assessment) to determine an assessment/sales ratio. None of the properties the Hinmans submitted recently sold.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). However, new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

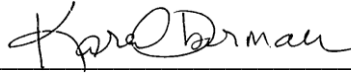
Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Hinmans offered four properties for an equity analysis but none has sold. Due to this fact, the Hinmans could not establish inequity in the assessment through an assessment/sales ratio. Further, the Hinmans did not assert different assessing methods were used to value the property. Thus, their evidence did not prove inequity under either legal test.

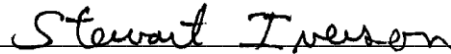
In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Hinman relies on the listing of a nearby property, but acknowledged the property is bank owned. Because it is a bank-owned property, its sale would be considered abnormal for assessment purposes unless it was adjusted for distorting factors. Iowa Code § 441.21(1)(b). Sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales. *Id.* Ultimately, Hinman does not offer sufficient evidence of the subject property's fair market value as of January 1, 2013.

THE APPEAL BOARD ORDERS the assessment of the Hinman's property located at 741 Highland Park Avenue, Coralville, Iowa, as set by the Johnson County Board of Review is affirmed.

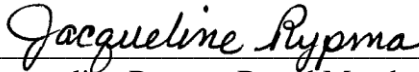
Dated this 14th day of February 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:
Dennis J. Mitchell
Meardon, Sueppel & Downer, PLC
122 Linn Street
Iowa City, Iowa 52240
REPRESENTATIVE FOR APPELLANT

Andy Chappel
Assistant Johnson County Attorney
PO Box 2450
Iowa City, Iowa 52244
ATTORNEY FOR APPELLEE